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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 26 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Implementation of Sections 12 and 19 )  
of the Cable Television Consumer )  
Protection and Competition Act of 1992 )  
 )  
Development of Competition and )  
Diversity in Video Programming )  
Distribution and Carriage )

MM Docket 92-265

TO: The Commission

**CONSOLIDATED REPLY TO OPPOSITIONS TO  
PETITION FOR RECONSIDERATION**

Black Entertainment Television, Inc. ("BET") hereby  
replies to the Oppositions filed by GTE Service Corporation  
("GTE") and the Wireless Cable Association International, Inc.  
("Wireless") in the captioned proceeding.

BET has urged the Commission to adopt a more flexible  
attribution standard for minority-owned cable programmers or to  
adopt the single majority shareholder exemption applicable to the  
broadcast attribution rule. As an initial matter, we note that  
the Commission has adopted the broadcast attribution standards in  
its Horizontal and Vertical Ownership proceeding. See Report and  
Order and Further Notice of Proposed Rulemaking in MM Docket  
92-264, F.C.C. 93-332 (Released July 23, 1993). There is no  
logical reason why these same standards could not and should not  
apply to program access as well. At the very least, such  
standards should apply to "video programmers [that] are

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attribution standard for minority programmers and to do so would serve the purposes of the 1992 Cable Act in general and Section 19 in particular.

More importantly, it is necessary to provide a more flexible attribution standard for minority programming in order to achieve the purposes of this section. Unlike many of the mass appeal cable programmers who will be carried by cable and other multichannel video program providers under just about any circumstances, BET has learned that it is sometimes necessary to deal with different multichannel program providers in different ways, not for the purpose of discriminating against multichannel program providers, but rather to maximize distribution of BET. The underlying premise of the restrictions on so-called "vertically integrated" programmers is that they will use whatever market power they have to extort higher fees from non-cable multichannel program providers or to maintain exclusive contracts with their affiliated cable operators. Thus, the restrictions on how the mass appeal programmers deal with program distributors arguably promotes diversity. BET's problem, however, is that it lacks the market power to significantly affect price. BET needs the flexibility to deal with different program providers in different ways to obtain carriage by those providers. Thus, the goal of increasing diversity is truly served only by allowing a more flexible attribution standard for minority programmers such as BET.

Similarly, GTE is concerned that freeing BET from the restrictions imposed on "vertically integrated" programmers might ultimately foreclose BET from being carried via alternative media. BET needs marketing flexibility to reach the point where its programming is as much desired by both cable operators and alternative media as some of the non-vertically integrated mass appeal programming is today. Since the flexibility it urges would be a matter of Commission regulation (rather than statutory) any such regulation could be changed if and when circumstances change. Alternatively, GTE and others would be able to avail themselves of the Commission's general waiver authority as needed. It makes far more sense to consider a rule change or waiver as a future possibility if circumstances change, than to foreclose BET ab initio from achieving parity with other mass appeal programmers. Such a result would clearly contravene the purposes of the 1992 Cable Act.

Respectfully submitted,

**BLACK ENTERTAINMENT  
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July 26, 1993

CERTIFICATE OF SERVICE

I hereby certify that I have mailed, postage prepaid, this 26th day of July, 1993, a copy of the foregoing Consolidated Reply to Oppositions to Petition for Reconsideration to the following:

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